

AMENDED IN ASSEMBLY MARCH 6, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 75

**Introduced by Assembly Member Members Steinorth and
Quirk-Silva**

**(Coauthors: Assembly Members Acosta, Travis Allen, Chávez, Kiley,
Lackey, Maienschein, Mayes, Voepel, Waldron, and Bocanegra)**

**(Coauthors: Senators Anderson, Cannella, Gaines, Morrell, Nguyen,
Nielsen, Vidak, and Wilk)**

January 4, 2017

An act to amend Section 17052 of the Revenue and Taxation Code, relating to earned income tax credit, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 75, as amended, Steinorth. Personal income taxes: earned income credit.

The Personal Income Tax Law allows various credits against the taxes imposed by that law, including certain credits that are allowed in modified conformity to credits allowed by federal income tax laws. Federal income tax laws allow a refundable earned income tax credit for certain low-income individuals who have earned income from wages, salaries, tips, and other employee compensation plus net earnings from self-employment and who meet certain other requirements. The Personal Income Tax Law, for taxable years beginning on or after January 1, 2015, in modified conformity with federal income tax laws, allows an earned income credit against personal income tax, which is only for earned income from wages, salaries, tips, and other employee compensation, and a payment in excess of that credit amount, to an

eligible individual that is equal to that portion of the earned income tax credit allowed by federal law as determined by the earned income tax credit adjustment factor as set forth in the annual Budget Act which, unless otherwise specified in that act, is 0%.

~~This bill would,~~ *bill*, for taxable years beginning on and after January 1, ~~2016,~~ *2017,* ~~would~~ expand the earned income credit allowed by the Personal Income Tax Law by providing additional conformity with federal income tax law to include specified net earnings from self-employment in earned income, thus allowing an earned income credit for taxpayers for those earnings. This bill would additionally set the earned income tax credit adjustment factor as 85%.

Existing law establishes the continuously appropriated Tax Relief and Refund Account and provides that payments required to be made to taxpayers or other persons from the Personal Income Tax Fund are to be paid from that account, including any amount allowable as an earned income credit in excess of any tax liabilities.

By authorizing new payments from that account for additional amounts in excess of personal income tax liabilities, this bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17052 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 17052. (a) (1) For each taxable year beginning on or after
- 4 January 1, 2015, there shall be allowed against the “net tax,” as
- 5 defined by Section 17039, an earned income tax credit in an amount
- 6 equal to an amount determined in accordance with Section 32 of
- 7 the Internal Revenue Code, relating to earned income, as applicable
- 8 for federal income tax purposes for the taxable year, except as
- 9 otherwise provided in this section.
- 10 (2) (A) The amount of the credit determined under Section 32
- 11 of the Internal Revenue Code, relating to earned income, as
- 12 modified by this section, shall be multiplied by the earned income
- 13 tax credit adjustment factor for the taxable year.

(B) (i) Unless otherwise specified in the annual Budget Act, the earned income tax credit adjustment factor for a taxable year beginning on or after January 1, 2015, and before January 1, ~~2016~~, 2017, shall be 0 percent.

(ii) The earned income tax credit adjustment factor for a taxable year beginning on or after January 1, ~~2016~~, 2017, shall be 85 percent.

(C) The earned income tax credit authorized by this section shall only be operative for taxable years for which resources are authorized in the annual Budget Act for the Franchise Tax Board to oversee and audit returns associated with the credit.

(b) (1) In lieu of the table prescribed in Section 32(b)(1) of the Internal Revenue Code, relating to percentages, the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	7.65%	7.65%
1 qualifying child	34%	34%
2 qualifying children	40%	40%
3 or more qualifying children	45%	45%

(2) (A) In lieu of the table prescribed in Section 32(b)(2)(A) of the Internal Revenue Code, the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	\$3,290	\$3,290
1 qualifying child	\$4,940	\$4,940
2 or more qualifying children	\$6,935	\$6,935

(B) Section 32(b)(2)(B) of the Internal Revenue Code, relating to joint returns, shall not apply.

(c) (1) Section 32(c)(1)(A)(ii)(I) of the Internal Revenue Code is modified by substituting “this state” for “the United States.”

(2) Section 32(c)(2)(A) of the Internal Revenue Code is modified as follows:

1 (A) Section 32(c)(2)(A)(i) of the Internal Revenue Code is
2 modified by deleting “plus” and inserting in lieu thereof the
3 following: “and only if such amounts are subject to withholding
4 pursuant to Division 6 (commencing with Section 13000) of the
5 Unemployment Insurance Code, ~~plus.~~ *plus*”.

6 (B) In lieu of Section 32(c)(2)(A)(ii) of the Internal Revenue
7 Code, substitute the following: “the amount of the taxpayer’s
8 reportable gross income from self-employment for the taxable
9 year.” For purposes of this section, “reportable gross income from
10 self-employment” means gross income derived by an individual
11 from any trade or business carried on by such individual that is
12 properly reported to the Secretary on an information return for the
13 taxable year and reported on a written statement furnished to that
14 individual as required pursuant to Section 6041 of the Internal
15 Revenue Code, relating to information at source, or Section 6041A
16 of the Internal Revenue Code, relating to returns regarding
17 payments of remuneration for services and direct sales.

18 (3) Section 32(c)(3)(C) of the Internal Revenue Code, relating
19 to place of abode, is modified by substituting “this state” for “the
20 United States.”

21 (d) Section 32(i)(1) of the Internal Revenue Code is modified
22 by substituting “\$3,400” for “\$2,200.”

23 (e) In lieu of Section 32(j) of the Internal Revenue Code, relating
24 to inflation adjustments, for taxable years beginning on or after
25 January 1, 2016, the amounts specified in paragraph (2) of
26 subdivision (b) and in subdivision (d) shall be recomputed annually
27 in the same manner as the recomputation of income tax brackets
28 under subdivision (h) of Section 17041.

29 (f) If the amount allowable as a credit under this section exceeds
30 the tax liability computed under this part for the taxable year, the
31 excess shall be credited against other amounts due, if any, and the
32 balance, if any, shall be paid from the Tax Relief and Refund
33 Account and refunded to the taxpayer.

34 (g) The Franchise Tax Board may prescribe rules, guidelines,
35 or procedures necessary or appropriate to carry out the purposes
36 of this section. Chapter 3.5 (commencing with Section 11340) of
37 Part 1 of Division 3 of Title 2 of the Government Code shall not
38 apply to any rule, guideline, or procedure prescribed by the
39 Franchise Tax Board pursuant to this section.

1 (h) Notwithstanding any other law, amounts refunded pursuant
2 to this section shall be treated in the same manner as the federal
3 earned income refund for the purpose of determining eligibility to
4 receive benefits under Division 9 (commencing with Section
5 10000) of the Welfare and Institutions Code or amounts of those
6 benefits.

7 (i) (1) For the purpose of implementing the credit allowed by
8 this section for the 2015 taxable year, the Franchise Tax Board
9 shall be exempt from the following:

10 (A) Special Project Report requirements under State
11 Administrative Manual Sections 4819.36, 4945, and 4945.2.

12 (B) Special Project Report requirements under Statewide
13 Information Management Manual Section 30.

14 (C) Section 11.00 of the 2015 Budget Act.

15 (D) Sections 12101, 12101.5, 12102, and 12102.1 of the Public
16 Contract Code.

17 (2) The Franchise Tax Board shall formally incorporate the
18 scope, costs, and schedule changes associated with the
19 implementation of the credit allowed by this section in its next
20 anticipated Special Project Report for its Enterprise Data to
21 Revenue Project.

22 (j) (1) In accordance with Section 41 of the Revenue and
23 Taxation Code, the purpose of the California Earned Income Tax
24 Credit is to reduce poverty among California's poorest working
25 families and individuals. To measure whether the credit achieves
26 its intended purpose, the Franchise Tax Board shall annually
27 prepare a written report on the following:

28 (A) The number of tax returns claiming the credit.

29 (B) The number of individuals represented on tax returns
30 claiming the credit.

31 (C) The average credit amount on tax returns claiming the credit.

32 (D) The distribution of credits by number of dependents and
33 income ranges. The income ranges shall encompass the phase-in
34 and phaseout ranges of the credit.

35 (E) Using data from tax returns claiming the credit, including
36 an estimate of the federal tax credit determined under Section 32
37 of the Internal Revenue Code, an estimate of the number of families
38 who are lifted out of deep poverty by the credit and an estimate of
39 the number of families who are lifted out of deep poverty by the
40 combination of the credit and the federal tax credit. For the

1 purposes of this subdivision, a family is in “deep poverty” if the
2 income of the family is less than 50 percent of the federal poverty
3 threshold.

4 (2) The Franchise Tax Board shall provide the written report to
5 the Senate Committee on Budget and Fiscal Review, the Assembly
6 Committee on Budget, the Senate and Assembly Committees on
7 Appropriations, the Senate Committee on Governance and Finance,
8 the Assembly Committee on Revenue and Taxation, and the Senate
9 and Assembly Committees on Human Services.

10 (k) The tax credit allowed by this section shall be known as the
11 California Earned Income Tax Credit.

12 (l) The amendments made to this section by Chapter 722 of the
13 Statutes of 2016 shall apply to taxable years beginning on or after
14 January 1, 2016.

15 (m) The amendments made to this section by the act adding this
16 subdivision shall apply to taxable years beginning on or after
17 January 1, ~~2016~~; 2017.

18 SEC. 2. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety within
20 the meaning of Article IV of the California Constitution and shall
21 go into immediate effect. The facts constituting the necessity are:

22 In order to assist and benefit a broader section of working poor
23 Californians, it is necessary that this act take effect immediately.

24
25
26 **REVISIONS:** _____

27 **Heading—Line 4.** _____